

FREEDOM OF ESTABLISHMENT WITHIN THE EEA

Notification about the applicable provisions under Austrian law for branches of CRR credit institutions from EEA Member States

CRR-credit institutions from EEA Member States, providing activities in Austrian by means of a branch must comply with the following provisions under Austrian law (incl. Article 9 para. 7 Austrian Banking Act (BWG; Bankwesengesetz)):

Austrian Banking Act (BWG; Bankwesengesetz)¹	
Article 23h.	Measures for the limitation of systemic risks in real estate financing
Articles 31 to 32	Savings deposits
Article 33	Special provisions for mortgage and immovable property loan agreements
Articles 34 to 37	Consumer protection
Article 37a	Deposit Guarantee Scheme
Article 38	Banking secrecy
Articles 39, 39a, 39e and 41	Due diligence and reporting obligations

¹ The authoritative wording of the respective legislative provisions may be found in German in their respective current versions in the Legal Information System of the Republic of Austria (Rechtsinformationssystem des Bundes) (<https://www.ris.bka.gv.at/>). Courtesy translations in English can be found on the FMA website at <https://www.fma.gv.at/en/national/>.

Article 44 paras. 3 to 6	Accounting provisions
Articles 60 to 63	The obligation to appoint a bank auditor, their qualitative requirements and specific obligations
Article 65 para. 3a	Publication
Articles 66 to 68	Obligation to satisfy the regulations regarding cover reserves when taking gilt-edged deposits
Articles 74 to 75	Reporting obligations
Article 93 para. 1	Information sharing for deposit guarantee and investor compensation purposes
Article 94	Protection of Designations
Article 95 paras. 3 and 4	Savings Associations and Employee Savings Plans

Financial Markets - Anti-Money Laundering Act (FM-GwG)

The FM-GwG is applicable to branches of CRR-credit institutions pursuant to Article 1 in conjunction with Article 2 no. 1 leg.cit. that are active under the freedom of establishment.

Depending on their purpose of business, credit institutions from Member States shall also have to comply with the other Federal Acts and EU Regulations² listed in Article 69 BWG as well as the following provisions:

² Article 69 (1) of the Austrian Banking Act lists the following federal laws or EU regulations: the Savings Banks Act (SpG; Sparkassengesetz), the Building Societies Act (BSpG; Bausparkassengesetz), the Regulation to the Mortgage Bank and Mortgage Bond Act (Einführungsverordnung zum Hypothekenbank- und zum Pfandbriefgesetz), the Mortgage Bank Act (HypBG; Hypothekenbankgesetz), the Mortgage Bond Act (PfandbriefG; Pfandbriefgesetz), the Act on Funded Bank Bonds (FBSchVG; Bankschuldverschreibungsgesetz), the Investment Fund Act 2011 (InvFG 2011; Investmentfondsgesetz), the Securities Deposit Act (DepotG; Depotgesetz), the Act on Severance and Retirement Funds for Salaried Employees and Self-Employed Persons (BMSVG; Betriebliches Mitarbeiter- und Selbständigenvorsorgegesetz), the Real Estate Investment Fund Act (ImmoInvFG; Immobilien-Investmentfondsgesetz), the Financial Conglomerates Act (FKG; Finanzkonglomeratengesetz), the Deposit Guarantee and Investor Compensation Act (ESAEG; Einlagensicherungs- und Anlegerentschädigungsgesetz), Regulation (EU) No 575/2013, Title IV of Regulation (EU) No 909/2014, the Act on the Enforcement of Central Securities Depositories (ZvVG; Zentralverwahrer-Vollzugsgesetz), Federal Law Gazette No 69/2015, Regulation (EU) 2017/2402 laying down a general framework for securitisation and creating a specific framework for simple, transparent and standardised securitisation, and amending Directives 2009/65/EC, 2009/138/EC and 2011/61/EU and Regulations (EC) No 1060/2009 and (EU) No 648/2012, OJ L 347, 28.12.2017, p. 35, the STS Securitisation Enforcement Act (STS-VVG; STS-Verbriefungsvollzugsgesetz) published in Federal Law Gazette I No. 76/2018, the Pfandbriefe Act (PfandBG; Pfandbriefgesetz) published in Federal Law Gazette I No. 199/2021, as well as the technical standards relevant to banking supervision under Articles 10 to 15 of Regulation (EU) No 1093/2010 and Articles 10 to 15 of Regulation (EU) No 1095/2010.

Securities Supervision Act 2018 (WAG 2018; Wertpapieraufsichtsgesetz 2018)	
Articles 47 to 54	Obligation to act in the client's best interest
Articles 55 to 59	Suitability and appropriateness of investment services
Articles 60 to 61	Reporting obligations towards clients
Articles 62 to 64	Best execution of services
Article 65	Handling of client orders
Articles 66 to 68	Professional clients and eligible counterparties
Articles 69 to 70	Unsolicited communication and door-to-door sales

Delegated Regulation (EU) 2017/565 supplementing Directive 2014/65/EU	
Article 36	Financial analyses and marketing communications
Articles 44 to 51	Informing clients and potential clients
Articles 52 to 53	Investment advice
Articles 54 to 58	Suitability assessment and appropriateness
Articles 59 to 63	Reporting obligations towards clients
Articles 64 to 66	Best possible execution
Articles 67 to 70	Handling of client orders

Regulation (EU) No 600/2014 (MiFIR)	
Articles 14 to 26	Transparency for systematic internalisers and investment firms trading OTC; transaction reporting

Payment Services Act 2018 (ZaDiG 2018; Zahlungsdienstegesetz 2018)	
Articles 5 and 6	Access to payment systems
Articles 32 to 87	Transparency of conditions, information requirements for payment services; rights and obligations when providing payment services